

Sustainable Development Aspect of Business Licenses of Timber Forest Product Management (IUPPHK) in Papua Province

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Abstract

Everyone has the right to live physical and spiritual prosperity, reside, and get a good environment and healthy and receive medical care... One state is able to implement its authority to regulate it, including timber forest products. Its authority can be created in the form of Timber Forest Product Utilization Permit (IUPPHK) formerly known as concessions/HPH). Implementation of sustainable development in the forestry sector in Papua Province put forest conservation as a natural resource in front.

Keywords: IUPPHK, Sustainable Development.

1. Introduction

Indonesia adopts the welfare state as mandated in the Preamble to the Constitution of the Republic of Indonesia 1945 (abbreviated UUD 1945). In paragraph 4 of the Preamble, it states that "... the State of Indonesia which protect all the people of Indonesia and the country of Indonesia and to promote the general welfare, the intellectual life of the nation ... " This mandate implies that the state has a responsibility to provide for the needs of every citizen through good governance. The existence of various government programs are basically aiming to realize the fulfillment of every citizen's need. In this regard to Article 28 H paragraph (1) UUD 1945, it asserts also that "everyone has the right to live physical and spiritual prosperity, reside, and get a good environment and healthy and receive medical care. Therefore, it can be concluded that this condition as a basic of human rights that must be maintained and protected for human survival purpose.

Life physical and spiritual prosperity is the desire of every living human beings. To fulfill this aim as the responsibility of state/government, the various program of the government is created to achieve it. In terms of welfare of human beings itself particular in context of management and utilization of forest resources, it has adopted the principles of sustainable development as outlined in the Law No. 41 Year 1999 concerning Forestry. The intention of the Law should pay attention to ecological, social, and economic aspects without prioritizing any of these aspects. In Article 2 of the Law governs the principles and purposes of the Law to manage the forest in order to be held in a sustainable manner. As part of the utilization of natural resources, forestry issues principles has connection with the principles as set out in the Law No. 32 of 2009 concerning the Protection and Management of Environment (hereinafter as UUPPLH). In the explanation of Article 2 of UUPPLH, the legal principles of UUPPLH are stated as state responsibility, preservation and sustainability, harmony and balance, integration, benefits, prudence, justice, ecoregions, biodiversity, polluter pays, participatory, local wisdom, good governance, and decentralization.¹

Forest establishment is basically the use of natural resources that must be preserved. It has to be governed and managed properly to prevent the environmental problems and to avoid its impact of society. The use of forest indeed must fulfill the provisions as outlined in the Law No. 41 Year 1999 (the forestry laws) and such other Forestry Laws including in local regulation.² As we known, the principles of forestry management as set in the Forestry Law and UUPPLH allow the realization of sustainable forest so that it would create a positive impact for human survival. Therefore, the failure of existing forest governance will cause a lot of problems associated with tranquility of human being life. The decline of forest resources, the lack of income of indigenous peoples. It means that the prosperity of Papua people especially the indigenous people will decrease gradually.

To tackle with the prosperity issue as mentioned above, it is very important to identify some forestry issues such as the issue of degradation and deforestation in Papua. Problematic of licence of useful forest/concessions (hereinafter HPH) is identified as the causes of degradation and deforestation. The licensing policies of the government to exploit forest for the purpose of economic interests and to provide land conversion easily can be said as the majority forms of the forest destruction in Papua.

As we seen, Papua is one of provinces that has the potential remaining forest in Indonesia. Based on data from the Forestry Unit in Papua Province that forest area in Papua is around 31.93 million ha. 80% of the

¹ Marhaeni Ria Siombo, *Environmental Law and its Implementation to Sustainable Development in Indonesia (completed by the Law No. 32 year 2009 Concerning Protection and Management of Environment)*, Gramedia Pustaka Umum, Jakarta, 2012, p. 19. See also Supriadi, *Forest Law and Plant Law in Indonesia*, Sinar Grafika, Jakarta, 2010, pp. 27-28.

² Abdul Muis Yusuf, dkk., *Forest Law in Indonesia*, Rineka Cipta, 2011, p. 15.

area consists of forests and it is known as a diversity center of the world's biodiversity, with 16,000 species of flora.¹ There are also 124 genera endemic angiosperms.

Due to population growth and its activities, Papua's forests always decrease gradually. This condition must be paid attention fully by the government. It is because it becomes a major threat to the survival of natural resources. Therefore, good forestry can be stated as the way out to deal with this condition to avoid an environmental damage in the future.

One sample of the Papua's Government policies to create the good forestry is the Specific Local Regulation (called *Perdatus*) No. 21 Tahun 2008 Concerning Sustainable of Forest Management in Papua Province. In the preamble of the *Perdatus* contains among other considerations, firstly, forest management has not been to improve the welfare of the people of Papua, particularly indigenous Papuans, and yet the government's fiscal strengthening in Papua province. Secondly, the forests in Papua is the creation and the gift of the Almighty God that must be used wisely for the benefit of humankind, both now and for next generations. Thirdly, since the enactment of the Law No. 21 of 2001 on Special Autonomy of Papua, the Central Government (Indonesia) recognizes and respects to the rights of indigenous peoples of Papua on natural resources, including forest resources. Fourthly, the forest management in Papua Province is conducted with alignments, protection and empowerment of indigenous Papuans in order to achieve prosperity and independence in the Republic of Indonesia, and finally is that forest management in Papua done through equitable and fair partnership, with due regard to the principles of environmental sustainability, justice, equity and human rights. According to Muchsan², to fulfill the good forestry, function or duty of Indonesia as a modern state has to be, as follows:

1. The function of security, land, and order;
2. The functions of welfare;
3. The function of education; and
4. The function to embody order and prosperity of the world.

In order to realize all the four functions, According to Logemann the government has to be given special powers called administrative law.³

In terms of forest use, one state is able to implement its authority to regulate it, including timber forest products. Its authority can be created in the form of Timber Forest Product Utilization Permit (IUPHHK) formerly known as concessions/HPH). IUPHHK is classified as highly impact activities that needs to seek protection and environmental management through Environmental Impact Analysis (hereinafter the EIA) and UKL-UPL before the permit is issued.

In recent years, an utilization of timber forest products has been abused by those people who are not responsible. Illegal logging practices and irresponsible of the utilization of licensing have resulted Indonesia in huge losses economically and environmentally. The focus of this paper therefore is to confirm the alignment of IUPHHK with the principles of sustainable development.

2. Sustainable Development Aspect of IUPHHK in Papua Province

The concept of sustainable development is a very important concept to be applied primarily to such activities related to the utilization of natural resources. The utilization of natural resources must be in line with the idea of sustainable development. Some samples of mis-connection between the utilization of natural resources and sustainable development can be seen in forest exploitation on a large scale that took place in the 1970s. The era of forest exploitation has happened since the enactment of the Law No. 5 of 1967 on Basic Provisions of Forestry, the Law No. 1 of 1967 on Foreign Direct Investment (FDI) and the Law No. 6 of 1968 concerning Domestic Investment (DCI), which gives a wide space for the investors to invest their money (capital) in Indonesia. Those laws furthermore have been followed by a variety of policies that allow large employers to control and clear the forest in order to raise capital, for example, the Government Decree No. 21 Year 1970 on Forest Utilization, the Government Decree No. 7 of 1990 on Industrial Forest Plantation, and other regulations that are clearly not in favor of the people. In the context of an implementation of sustainable development in the forestry sector in Papua Province, it puts forest conservation as a natural resource in front. The idea of preservation of forest is becoming one of the main capital in development. Therefore, it can be said that the idea of preservation plays an important role on the ecological aspect and should not be ignored its existence. Regarding to the implementation of sustainable development in Papua Province in conjunction with IUPHHK activities can be assessed through the responses some respondents as follows:

¹ See the explanatory of the Specific Local Regulation (called *Perdatus*) No. 21 Tahun 2008 Concerning Sustainable of Forest Management in Papua Province.

² Muchsan in Helmi, *Licensing law of Environment*, Sinar Grafika, Jakarta, 2012, pp. 16-17

³ Ibid. p. 18.

Table 1

No	Statement	AC			Nominal	Percentage %
		VA	A	NA		
1	Sustainable Development Concept is a basic fundamental that has to applied in the area of IUPPHK in Papua. The implementation of the concept conducted by the the Local Government and Multi National Enterprises has decreased an environmental (forests) damage.	0			0	0
			3		3	20,1
				12	12	79,9
2	Total	0	3	12	15	100 %

Note:

AC = Answer Categories

VA = Very Agree, A = Agree, NA = No Agree

The table above shows that respondents' s response are VA = 0, A = 20.1% and NA = 79.9%. This means that the implementation IUPHHK in Papua Province has not managed properly to keep damage to the forest ecosystem. On the basis of respondents facts as stated, the implementation of the sustainable development of the ecological aspect has not done well. Although the Forest Agreement does not mention that the acquisition of the management of natural resources (forest) is not in the form of property rights, but it is entitled to have the net result of exploited forest resources are still shareholders (after deducting production costs, PSDH and DR, Tax, payroll and others).

The forest management concession system is not actually native to Indonesia, but it copies and pastes from the concept of Netherlands. The system of concessions that hundreds of years ago is already considered incompatible with the times. It is very detrimental to the people. As we known, form of implementation of forest use from the New Order era to the present only focuses on production goals. That is way the certain forest management is likely to be bad. However, if the aspect of it is doing well, deforestation can be handled and it will create "zero deforestation". Another thing that contributes to the destruction of forests is a conflict of interest between forestry and mining. Protected forest areas or conservation in current position can be threatened due to explorization interests.

In terms of the forest management in Papua, the failure of it is due to errors of policymaking, including the misuse of regulatory implementation and its deviations in the technical level in the field. The errors of policy makers depart from the assumption that the forest as a national resource must be utilized for the welfare of the people. On the basis of these assumptions and to derive optimal benefits from forests and forest areas for the welfare of society, all forests including forest land must be utilized with regard to its nature, characteristics, and vulnerability. They are not allowed to change its function anyway.

All facts as mentioned above can explain why the forest management is often misused in the area of regulatory implementation. For example, one company that has IUPHHK-HA that is logging outside of its working area and outside the CTR block set. Another example is when the company cutting down the volume exceeds of the allowed tolerance or when it is cutting below the limit specified diameter. It can be also included irregularities of the technical level of deviations of TPTI rules (Indonesian Selective Logging) such as non-performance of forest development, planting bare soil, and others.

Related to the utilization of natural resources such as IUPHHK in Papua Province, it has to be controlled by the implementation of the principles of sustainable development with the purpose of having the guarantee of the needs of current and future generations. The utilization of natural resources basically requires to maintain ecological, economic and social balances.

The concept of the implementation of sustainable development can be found and has been adopted into Spatial Local Regulation of Papua Province, as follows:¹

1. The long-term growth and equitable. It prevents boombust trajectory. It means that it reduces dependency of natural resources;
2. To fullfil the development needs and to secure carbon assets; and
3. To Build endurance in long terms either in the area of natural resources or in termsof policies making in order to face the effects of climate change and natural disasters.

Related to the concept of sustainable development associated with forest management , article 3 of the Law No. 41 of 1999 stipulates that "Forest accomplishment is aimed to reach equal and sustainable of the

¹ See Symposium of Sustainable Development in Papua Province on 28 Februari 2011.

greatest prosperity of the people to.”

- a. guarantee the existence of the forest with an area of sufficient and proportionate distribution;
- b. optimize the various functions of forests like functions of conservation, protection function, and the function of production to achieve environmental benefits, social, cultural, economic, balanced and sustainable;
- c. increase the carrying capacity of the watershed;
- d. improve the development of capacity and community empowerment through participatory, equitable, and environmentally sound that can create social and economic resilience and resistance due to external changes; and
- e. ensure benefit and sustainable of useful distribution.

Some things need to be achieved in sustainable development in Papua Province can be outlined in Papua Governor's speech, as follows:¹

1. All the Papua's people and Papua residents enjoy education, health, nutrition, life expectancy and quality of life;
2. All the people of Papua and Papua's population are involved in the development process and are able to make wise decisions based on valid information about how land and their natural resources must be managed;
3. Fair and equitable development which provides the opportunity for all people of Papua to enjoy the benefits derived from their land and natural resources in a sustainable manner;
4. Papuan's life are passionate and grow of primary resource extraction-based economy towards secondary and tertiary industries that focuses on the impact of value added / ecological footprint as small as possible;
5. All the Papuans are able to climb the rungs of development at their own pace to achieve a knowledge-based economy and advanced technology; and
6. Papuan's life is built on the foundation of strong social values, including traditional values and a strong social adhesion.

Objective conditions in Papua Province today either human resources or naturak resources are not run simultaneously. Its potential natural resources especially its forest has not significantly influenced to the development of human resources. The poverty rate remains high in Papua especially for indigenous peoples who live in forest areas. Implementation of IUPHHK is against to the welfare of indigenous people in Papua. The people remain an object of IUPHHK. So that is way they are still poor.

A degradation caused by mismanagement of the forest can be seen in Papua. Some sample forest damage can be stated, as follows:

- a. Sample an opening of agricultural land by community in Keerom District with applying forest fires concept is a proof that the community has to choose this matter to open agricultural land and land development settlement. Eventhough, they realize that this way is not good enough to protect their forest properly.
- b. Sample of an extensive forest damage in Nabire. It shows that it could potentially causes erosion.
- c. Sample of oil palm plantation land conversion in Jayapura District.
- d. Sample of flooding that occurred in 2011. It washed away the permanent bridge that connects between Jayapura District and Sarimi District. The rain washed away logs in considerable amounts ultimately suppress permanent iron bridge with a length of 50 meters.

The impact of deforestation in Papua has strong influence on the welfare of indigenous peoples. The influence of deforestation of indigenous peoples is depending on nature. This condition should be done by considering awareness and high morality both the licenser and the licensee.

Based on those facts as mentioned, the most influential factor in forest degradation in Papua Province are:

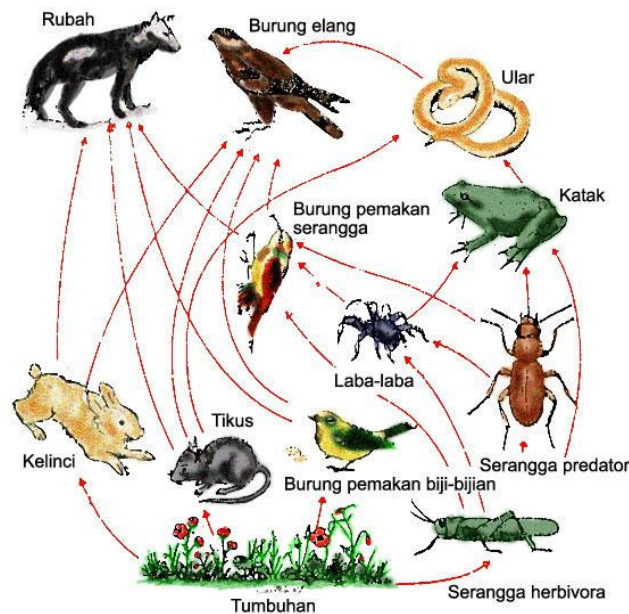
- a. Factors land clearance for infrastructure;
- b. Factors plantation land for clearing;
- c. Deforestation uncontrollable factors;

Factors land clearance for infrastructure do not comply with the function of the region. In Jayapura city, the local government issues a land use permit in protected areas. As we known, the forest protected areas or the forest conservation area of Cyclops is a restricted area based on a decision of the Minister of Forestry. However, the fact shows that the local government allow for the construction of public roads and residential community. In the context of opening of oil palm plantations furthermore, this is one of the most influential factors in the process of increasing forest degradation in Papua Province. There are four locations of oil palm plantations in Papua such as PIR In Keerom District, Plantation of PT. Sinar Mas in Jayapura, Palm Oil of PT. Sucofindo in District Digoel, and Oil Palm of PT. New Nabire in Nabire. The last factor of the most influential factor in forest degradation is illegal logging or uncontrolled deforestation. It is a serious problem. Illegal logging backed by the authorities becomes a big issue to be tackled. It is needed an awareness and courage by the local government to eradicate illegal logging actors through legal channels.

¹ Ibid.

The philosophy of prevention and eradication of forest damage as outlined in the paragraph a of the Preamble of the Law 18 Year 2013 concerning the Prevention and Eradication of Forest Damage. It states that: "the forest as a gift and grace of the Almighty God who gives to the nation of Indonesia, a vast wealth controlled by the state and provide benefits to human beings who must be grateful, managed and utilized optimal and preserved for the greatest prosperity of the people as expressed dala The Constitution of the Republic of Indonesia Year 1945 ".

The issue of forest clearing in Bonggo - Jayapura District Papua Province gets rejection of customary of indigenous people that is a detrimental to society. Problems of forest damage caused by land clearing for palm oil plantations is the extinction of flora and fauna in the plantations. The ecosystem damage often goes to unnoticed by human activity.



The picture above shows a picture of the chain or cycle of life in an ecosystem. In the utilization of natural resources of this chain of life is often overlooked or underestimated. The breakdown in one of the life chain stretcher above will lead to imbalance in the environment, which will ultimately threaten the sustainability of the process. Aas we known, all living things has created beneficial for the balance that will eventually support the welfare of mankind.

An ecological processes and life support systems of biophysical factor determines the sustainable carrying capacity in the diversity of the gene resources. For example, the forest is one of the ecological factors in life support systems. Forest fotosintesis process that produces oxygen needed by humans for breathing.¹

Wide-covered forest contribute to the process of photosynthesis. In terms of area covered, the forests of Papua is Indonesia's largest forest with an area of more than 32 million hectares, followed by extensive Kalimantan 30.6 million hectares of forest, while the area of forest in Sumatra is 16.3 million ha of forest. In ecology and environment, forests of Papua has a high value because of the flora and fauna are quite varied in forest cover of 88%. The forest is spread evenly from the muddy coast up to the Alpine peak in the central mountains. Most of the high density of Papua's forests are classified as primary forest. Thus the forest into the largest tropical forest in Southeast Asia.² From the ecological context of forest resources in Papua are the mainstay of subsistence and livelihood for the majority of indigenous peoples. Economically, the researchers estimated that nearly 50% of the 2.1 million people in Papua is below the poverty line version of the nations and to meet the needs of life, 70% dependent on forest resources.

Mas Achmad Santosa³ argues that the failure of countries in the world, including Indonesia in actualizing sustainable development is the inability of policy makers to integrate the three pillars of sustainable development into decision-making processes of the State. In developing countries, such as Indonesia management policies (including utilization) of natural resources is never viewed as a whole of the three aspects (economic, ecological, and social). The problems as mentioned appears on forest management in Papua through the data rate of deforestation in the year 2006 until the year 2009 amounted to 728 416 ha, while between 2009

¹ Ibid. p. 8.

² Management Agency of Natural Resources and Environment (called BPSDALH) Papua Provinsi 2012.

³ Mas Ahmad Santosa, in op.cit. p. 271.

to 2011 for the entire district of Papua Province amounted to 385 939 ha. The rate of forest degradation in the period 2006 to 2009 amounted to 645 684 ha in 2009 to 2011 amounted to 642 267 ha.

Tabel 2 Forest Deforestation In Papua Province from 2009 to 2011

No.	District/Mayor	Luas Kawasan Hutan (Ha)	Deforestasi (Ha)	Degradasi (Ha)	Total (Ha)
1	2	3	4	5	6
1	Asmat	2.470.804	425	10.293	10.297
2	Biak	344.426	429	210.900	2.113
3	Bovendigul	2.224.235	43.039	196.311	239.350
4	Deiyai	137.525	-	-	-
5	Dogiyai	461.191	20.246	3.127	23.373
6	Intan Jaya	950.595	0	0	-
7	Jayapura	1.258.716	6.148	5.334	11.482
8	Jayawijaya	124.984	339	1.463	1.466
9	Keerom	637.130	2.235	342	2.238
10	Lani jaya	324.597	9.783	-	9.783
11	Mappi	2.299.176	122.123	25.559	147.682
12	Memberamo Tengah	344.557	3.625	1.181	4.806
13	Memberamo Raya	2.747.305	21.762	101.859	123.621
14	Merauke	4.376.107	32.955	56.132	5.642
15	Mimika	1.968.429	11.095	16.681	27.776
16	Nabire	1.629.586	13.719	84.226	97.945
17	Nduga	650.294	16.286	1.656	17942
18	Paniai	531.877	20.568	3.378	23946
19	Peg. Bintang	1.609.920	15.804	12.978	28782
20	Puncak	525.756	0	0	-
21	Puncak Jaya	515.522	40.546	4.333	44.879
22	Sarmi	1.338.258	5.407	24.175	29.582
23	Supiori	47.778	231	0	231
24	Tolikara	610.540	3.141	2.299	5.440
25	Waropen	695.538	168	39.367	39.535
26	Yahukimo	1.540.265	18.279	43.535	61.814
27	Yalimo	359.063	533	-	533
28	Yapen	371.364	10.858	5.301	16.159
29	Kota Jayapura	65.546	134	967	2.307
	Jumlah	3.116.1085	385.939	642267	1.029.545

According to BPSDALH (Management Agency of Natural Resources and Environment) that “approximately 20% (6 million hectares) of forest in Papua can be utilized for conversion interests. It can be also used for an investment commodity. However, in terms of utilization the forest, it seems inefficient because the economy in Papua less integrated. Large investments are likely to cause environmental damage”.¹

According to the author that there are strong indications of violations committed by the concessionaires of the licenses granted by the government, namely the exploitative techniques. The violations are very easy to do because the holder of such IUPHHK applies technical procedures logging of forest areas. As we seen, in the logging provisions as set forth in Article 4 paragraph (3) Perdasus No. 21 of 2008 is that “harvestable trees are trees with a diameter of 40 cm above for swamp forest and 50 cm for the dry forests with the potential of at least 20 m³ / ha in all commercial types”.

Another important point to be criticized is how to curb the limits IUPHHK on natural forests. The limitation of IUPPHK curbs can save the forests. The using tools of modern technology can be done for example by aerial photography as the best solution to save the forest. This model in long term is able to reduce deforestation. One form of treatment or control the rate of deforestation in Papua through the decision of the Minister of Forestry of the Republic of Indonesia Number: SK. 481 / Menhut-II / 2009 on Zoning Forest Management Unit (KPHP) and Protected Forest Management Units (KPHL) and Forest Area Management Unit Conversion (KPHK) Papua Province in Papua has been determined that 56 units consisting of 31 KPHP, 25 KPHL unit and KPHK the whole area of 18,180,201 hectares or 58.49% of the forest area of Papua Province.

KPH program is the smallest unit in forest management that is planned to be built in Papua, which was later adopted into Perdasus No. 21 of 2008 on sustainable forest. The question arise from the KPH program is

¹ BPSDALH, supra note. P. 7.

whether it is appropriate to apply in Papua with special autonomy status? To deal with it, according to the Governor of the Province of Papua, the implementation of the program can be run in accordance with the Local Government Planning to built as many as 56 units of KPH to be divided based on regional of indigenous peoples. Related to KPH's authority, it is covered by the authority of Province government and/or the District government as governed by the Law, which the forest management planning in long terms will be designed by the Chief of KPH with fullfill all requirements as outlined in the Law.¹

3. Conclusion

In terms of connection between IUPPHK and sustainable development, there are some aspects to be considered especially in its implementing in Special Autonomy in Papua, as follws:

- a. Increasing public service to indigenous people as part of the purpose of Special Autonomy in Papua;
- b. Empowering the indigenous people to get involve to protect the forest (the forest management); and
- c. Applying all Laws related to IUPPHK.

Those aspects as mentioned are the clue to protect the forest from the wide-range damage due to of poeple activities.

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¹ Ahmad Redi, *Natural Resources Law in Forestry Sector*, Sinar Grafika, Jakarta, 2014, p. 121.

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